



Article 7. Closure and Post-Closure

§66265.110. Applicability.

Except as section 66265.1 provides otherwise:

(a) sections 66265.111 through 66265.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) sections 66265.116 through 66265.120 (which concern post-closure care) apply to the owners and operators of:

- (1) all hazardous waste disposal facilities;
- (2) waste piles and surface impoundments for which the owner or operator intends to remove the waste at closure to the extent that these sections are made applicable to such facilities in section 66265.228 or section 66265.258;
- (3) tank systems that are required under section 66265.197 to meet requirements for landfills; and
- (4) containment buildings that are required under section 66265.1102 to meet the requirement for landfills.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 25245 and 58012, Health and Safety Code.

Reference: Sections 25159, 25159.5, 25245, 25246 and 58012, Health and Safety Code; 40 CFR Section 265.110.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment of subsections (b)(1)-(3), new subsection (b)(4) and amendment of Note filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsections (b)(1)-(3), new subsection (b)(4) and amendment of Note refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (b)(1)-(3), new subsection (b)(4) and amendment of Note refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (b)(1)-(3), new subsection (b)(4) and amendment of NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-96 (Register 96, No. 5).

§66265.111. Closure Performance Standard.

The owner or operator shall close the facility in a manner that:

- (a) minimizes the need for further maintenance, and
- (b) controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated rainfall or run-off, or waste decomposition products to the ground or surface waters or to the atmosphere, and
- (c) complies with the closure requirements of this chapter including, but not limited to, the requirements of sections 66265.197, 66265.228, 66265.258, 66265.280, 66265.310, 66265.351, 66265.381, 66265.404, and 66265.1102.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25179.6, 25245 and 58012, Health and Safety Code.

Reference: Sections 25159, 25159.5, 25245 and 58012, Health and Safety Code; 40 CFR Section 265.111.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (c) and Note filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (c) and Note refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (c) and Note refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (c) and NOTE refiled 6-19-95 as an emergency; operative 10-16-95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Editorial correction of HISTORY 5 (Register 96, No.5).
7. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-95 (Register 96, No. 5).

§66265.112. Closure Plan; Amendment of Plan.

(a) Written plan. By six months after the effective date of the rule that first subjects a facility to provisions of this section, the owner or operator of a hazardous waste management facility shall have a written closure plan. Until final closure is completed and certified in accordance with section 66265.115, a copy of the most current plan shall be

kept at the facility and furnished to the Department upon request, including request by mail. In addition, for facilities without approved plans, it shall also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Department who is duly designated by the Director.

(b) Content of plan. The plan shall identify steps necessary to perform partial or final closure of the facility at any point during its active life and to perform final closure of the facility at the end of its active life. The closure plan shall include, at least:

(1) a description of how and when each hazardous waste management unit at the facility will be closed in accordance with section 66265.111; and

(2) a description of how and when final closure of the facility will be conducted in accordance with section 66265.111. The description shall identify the maximum extent of the operation which will be unclosed during the active life of the facility; and

(3) an estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

(4) a detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

(5) a detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control; and

(6) a schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule shall include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover shall be included); and

(7) an estimate of the expected year of final closure.

(8) all information necessary to enable the Department to prepare an Initial Study for the closure plan, which meets the requirements of Title 14, CCR section 15063, unless the Department has determined that the closure plan is exempt from the requirements of the California Environmental Quality Act pursuant to Title 14, CCR section 15061.

(c) Amendment of plan. The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan shall submit a written request to the Department to authorize a change to the approved closure plan. The written request shall include a copy of the amended closure plan for approval by the Department.

(1) The owner or operator shall amend the closure plan whenever:

(A) changes in operating plans or facility design affect the closure plan, or

(B) there is a change in the expected year of closure, or

(C) in conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(2) The owner or operator shall amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with section 66265.310.

(3) An owner or operator with an approved closure plan shall submit the modified plan to the Department at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator shall submit the modified plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with section 66265.310. If the amendment to the plan is a Class 2 or 3 modification according to the criteria in section 66270.42, the modification to the plan will be approved according to the procedures in section 66265.112(d)(4).

(4) The Department may request modifications to the plan under the conditions described in subsection (c)(1) of this section. An owner or operator with an approved closure plan shall submit the modified plan within 60 days of the request from the Department, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a Class 2 or 3 modification according to the criteria in section 66270.42, the modification to the plan will be approved in accordance with the procedures in section 66265.112(d)(4).

(d) Notification of partial closure and final closure.

(1) The owner or operator shall submit the closure plan to the Department at least 180 days prior to the date on which the owner or operator expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator shall submit the closure plan to the Department at least 180 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace. The owner or operator shall submit the closure plan to the

Department at least 180 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks or containers used for transfer, treatment or storage, or incinerator units. An owner or operator with an approved closure plan shall notify the Department in writing at least 60 days prior to the date on which the owner or operator expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners or operators with approved closure plans shall notify the Department in writing at least 45 days prior to the date on which the owner or operator expects to begin partial or final closure of a boiler or industrial furnace. An owner or operator with an approved closure plan shall notify the Department in writing at least 45 days prior to the date on which the owner or operator expects to begin final closure of a facility with only tanks or containers used for transfer, treatment or storage, or incinerator units.

(2) The date when the owner or operator "expects to begin closure" shall be either no later than the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. The Department may approve an extension to this one-year limit if the owner or operator of a hazardous waste management unit demonstrates to the satisfaction of the Department that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, the owner or operator has taken, and will continue to take, all steps necessary to comply with all interim status requirements, and the extension will not pose a threat to human health and the environment.

(3) For units meeting the requirements of section 66265.113(d), the date when the owner or operator "expects to begin closure" shall be no later than the date on which the hazardous waste management unit receives the known final volume of non-hazardous wastes, or if there is a reasonable possibility that the hazardous waste management unit will receive additional non-hazardous wastes, no later than one year after the date on which the unit received the most recent volume of non-hazardous wastes. If the owner or operator can demonstrate to the Department that the hazardous waste management unit has the capacity to receive additional non-hazardous wastes and the owner or operator has taken, and will continue to take, all steps to prevent threats to human health and threats to the environment, including compliance with all applicable interim status requirements, the Department may approve an extension to this one-year limit. A facility operating under the requirements of section 66265.113(d) shall continue to be subject to the facility fee specified in Health and Safety Code, Division 20, section 25205.2(d), until the facility has complied with the requirements of section 66265.113(a). Health and Safety Code, Division 20, section 25205.2(d)(4) shall not apply to a facility operating pursuant to section 66265.113(d).

(4) The owner or operator shall submit the closure plan to the Department no later than 15 days after:

(A) termination of interim status except when a permit is issued simultaneously with termination of interim status; or

(B) issuance of a judicial decree or final order under Health and Safety Code section 25358.3 or article 8 of chapter 6.5 of division 20 of the Health and Safety Code to cease receiving hazardous wastes or close.

(5) The Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. The Department will also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Department will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Department will approve, modify, or disapprove the plan within 90 days of its receipt. If the Department does not approve the plan the Department shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Department will approve or modify this plan in writing within 60 days. If the Department modifies the plan, this modified plan becomes the approved closure plan. The Department shall assure that the approved plan is consistent with sections 66265.111 through 66265.115 and the applicable requirements of article 6 of this chapter and sections 66265.197, 66265.228, 66265.258, 66265.280, 66265.310, 66265.351, 66265.381, 66265.404, and 66265.1102. A copy of the modified plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

NOTE: Authority cited: Sections 25150, 25159, 25159.5, 25245, 58004, and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.112; Sections 21080(c), 21080.1, 21080.3, 21082.1, 21100 and 21151, Public Resources Code.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment of subsection (d)(4) and Note filed 10-24-94 as an emergency; operative 10-24-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-20-95 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (d)(4) and Note refiled 2-21-95 as an emergency; operative 2-21-95 (Register 95, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-21-95 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (d)(4) and Note refiled 6-19-95 as an emergency; operative 6-19-95 (Register 95, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-17-95 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (d)(4) and NOTE refiled 10-16-95 as an emergency; operative 10-16-95 (Register 95,

- No. 42). A Certificate of Compliance must be transmitted to OAL by 2-13-96 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 10-24-94 order transmitted to OAL 12-15-95 and filed 1-31-95 (Register 96, No. 5).
7. New subsection (d)(3), subsection renumbering, and amendment of newly designated subsection (d)(5) and NOTE filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
8. Amendment of subsections (a) and (d)(1) and NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).
9. Change without regulatory effect amending subsection (d)(2) filed 10-22-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 43).
10. Change without regulatory effect amending subsection (d)(3) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
11. Change without regulatory effect amending subsection (d)(3) filed 1-7-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).
12. Change without regulatory effect amending subsection (d)(5) filed 8-15-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 33).

§66265.113. Closure; Time Allowed for Closure.

(a) Within 90 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this section, at a hazardous waste management unit or facility, or within 90 days after approval of the closure plan, whichever is later, the owner or operator shall treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Department may approve a longer period if the owner or operator demonstrates to the satisfaction of the Department that:

(1)(A) the activities required to comply with this subsection will, of necessity, take longer than 90 days to complete; or

(B) 1. the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the facility owner or operator complies with subsections (d) and (e) of this section; and

2. there is a reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit or the facility within one year; and

3. closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) the owner or operator has taken and will continue to take all steps to comply with all applicable interim status requirements and the longer period will not pose a threat to human health and the environment.

(b) The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes, or the final volume of non-hazardous wastes if the owner or operator complies with all applicable requirements in subsections (d) and (e) of this section, at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Department may approve an extension to the closure period if the owner or operator demonstrates that:

(1)(A) the partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(B) 1. the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes, or has the capacity to receive non-hazardous wastes if the facility owner or operator complies with subsections (d) and (e) of this section; and

2. there is reasonable likelihood that a person other than the owner or operator will recommence operation of the hazardous waste management unit or the facility within one year; and

3. closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed, but not operating, hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

(c) The demonstrations referred to in subsections (a) and (b) of this section shall be made as follows:

(1) the demonstrations in subsection (a) of this section shall be made at least 30 days prior to the expiration of the 90-day period in subsection (a); and

(2) the demonstrations in subsection (b) shall be made at least 30 days prior to the expiration of the 180-day period in subsection (b), unless the owner or operator is otherwise subject to the deadlines in subsection (d) of this section.

(d) The Department may allow an owner or operator to receive non-hazardous wastes in a landfill, land treatment, or surface impoundment unit after the final receipt of hazardous wastes at that unit, if:

(1) The owner or operator submits an amended Part B application, or a Part B application, if not previously required, and demonstrates to the Department that:

(A) the unit has the existing design capacity as indicated on the Part A application to receive non-hazardous wastes; and

(B) there is a reasonable likelihood that either the owner or operator or another person will receive non-hazardous wastes in the unit within one year after the final receipt of hazardous wastes; and

(C) the non-hazardous wastes will not be incompatible with any remaining hazardous wastes in the unit, or with the facility design and operating requirements of the unit or facility under this chapter; and

(D) closure of the hazardous waste management unit would be incompatible with continued operation of the

unit or facility; and

(E) the owner or operator is operating and will continue to operate in compliance with all applicable interim status requirements of this chapter and with all applicable regulations promulgated by other state agencies governing discharges of hazardous or non-hazardous wastes to land and water, including, but not limited to, regulations promulgated by the California Integrated Waste Management Board and the State Water Resources Control Board; and

(2) The Part B application includes an amended waste analysis plan, monitoring and response program for groundwater, air and soil-pore gas required under articles 6 and 18 of this chapter, human exposure assessment required under Title 42, U.S.C. section 6939a, and closure and post-closure plans, and updated cost estimates and demonstrations of financial assurance for closure and post-closure care as necessary and appropriate, to reflect any changes due to the presence of hazardous constituents in the non-hazardous wastes and changes in closure activities, including the expected year of closure, if applicable under section 66265.112(b)(7), as a result of the receipt of non-hazardous wastes following the final receipt of hazardous wastes; and

(3) The Part B application is amended, as necessary and appropriate, to account for the receipt of non-hazardous wastes following receipt of the final volume of hazardous wastes; and

(4) The Part B application and the demonstrations referred to in subsection (d)(1) and (d)(2) of this section are submitted to the Department no later than 180 days prior to the date on which the owner or operator receives the known final volume of hazardous wastes, or no later than 90 days after the effective date of this rule, whichever is later.

(e) In addition to the requirements in subsection (d) of this section, an owner or operator of a hazardous waste surface impoundment that is not in compliance with the liner and leachate collection system requirements pursuant to Title 22, CCR, Division 4.5, Chapter 15, Article 11 shall:

(1) Submit with the Part B application:

(A) a contingent corrective measures plan, and

(B) a plan for removing hazardous wastes in compliance with subsection (e)(2) of this section; and

(2) Remove all hazardous wastes from the unit by removing all hazardous liquids and by removing all hazardous sludges to the extent practicable without impairing the integrity of the liner(s), if any.

(3) Removal of hazardous wastes shall be completed no later than 90 days after the final receipt of hazardous wastes. The Department may approve an extension to this deadline if the owner or operator demonstrates that the removal of hazardous wastes will, of necessity, take longer than the allotted period to complete and that an extension will not pose a threat to human health or the environment.

(4) If a release of hazardous waste that is a statistically significant increase (or decrease in the case of pH) in hazardous constituents over background levels or that exceeds the facility's protection standards for groundwater, air, or soil-pore gas at the points of compliance, if applicable, is detected in accordance with the requirements in articles 6 or 18 of this chapter, the owner or operator of the unit:

(A) shall implement corrective measures in accordance with the approved contingent corrective measures plan required by subsection (e)(1) of this section no later than one year after detection of the release of hazardous waste, or approval of the contingent corrective measures plan, whichever is later;

(B) may continue to receive wastes at the unit following detection of any release only if the approved corrective measures plan includes a demonstration that continued receipt of wastes will not impede corrective action; and

(C) may be required by the Department to implement corrective measures in less than one year, or to cease receipt of wastes until corrective measures have been implemented if necessary to protect human health or the environment.

(5) During the period of corrective action, the owner or operator shall provide semi-annual reports to the Department that describe the progress of the corrective action program, compile all monitoring data for groundwater, air, and soil-pore gas, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

(6) The Department may require the owner or operator to commence closure of the unit if the owner or operator fails to implement corrective action measures in accordance with the approved contingent corrective measures plan within one year as required in subsection (e)(4) of this section, or fails to make substantial progress in implementing corrective action and achieving the facility's protection standards for groundwater, air, or soil-pore gas, or background levels if the facility has not yet established a protection standard for groundwater, air, or soil-pore gas.

(7) If the owner or operator fails to implement corrective measures as required in subsection (e)(4) of this section, or if the Department determines that substantial progress has not been made pursuant to subsection (e)(6) of this section, the Department shall do the following:

(A) notify the owner or operator in writing that the owner or operator shall begin closure in accordance with the deadlines in subsections (a) and (b) of this section and provide a detailed statement of reasons for this determination.

(B) provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the decision no later than 20 days after the date of the notice.

(C) If the Department receives no written comments, the decision will become final five days after the close of the comment period. The Department shall notify the owner or operator that the decision is final, and that a revised closure plan, if necessary, shall be submitted within 15 days of the final notice and that closure shall begin in accordance with the deadlines in subsections (a) and (b) of this section.

(D) If the Department receives written comments on the decision, the Department shall make a final decision

within 30 days after the end of the comment period, and shall provide the owner or operator in writing and the public through a newspaper notice, a detailed statement of reasons for the final decision. If the Department determines that substantial progress has not been made, closure shall be initiated in accordance with the deadlines in subsections (a) and (b) of this section.

(E) The final determinations made by the Department under subsections (e)(7)(C)-(D) of this section are not subject to administrative appeal.

NOTE: Authority cited: Sections 25150, 25159, 25245, 58004, and 58012, Health and Safety Code. Reference: Sections 25159, 25159.5, 25200.10, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.113.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Amendment of subsections (a), (a)(1)(B)1., (b), (b)(1)(B)1., (b)(2) and (c)(1)-(2), new subsections (d)-(e)(7)(E) and amendment of NOTE filed 6-20-96; operative 7-20-96 (Register 96, No. 25).
3. Change without regulatory effect amending subsections (a),(b) and (e)(5) filed 10-22-96; pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 43).
4. Change without regulatory effect amending subsection (d)(2) filed 12-23-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 52).
5. Change without regulatory effect amending subsection (e)(3) and Note filed 6—7—2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 24).

§66265.114. Disposal or Decontamination of Equipment, Structures and Soils.

During the partial and final closure periods, all contaminated equipment, structures and soil shall be properly disposed of, or decontaminated by removing all hazardous waste and residues, unless specified otherwise in sections 66265.197, 66265.228, 66265.258, 66265.280, or 66265.310. By removing all hazardous wastes and residues or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and shall handle that hazardous waste in accordance with all applicable requirements of chapter 12 of this division.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.114.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66265.115. Certification of Closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator shall submit to the Department, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification shall be signed by the owner or operator and by an independent qualified professional engineer, registered in California. Documentation supporting the independent registered professional engineer's certification shall be furnished to the Department upon request until the Department releases the owner or operator from the financial assurance requirements for closure under section 66265.143, subsection (i).

NOTE: Authority cited: Sections 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.115.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
2. Change without regulatory effect amending section and Note filed 12-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 51).

§66265.116. Survey Plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Department, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed vertical and horizontal benchmarks. This plat shall be prepared and certified by a professional land surveyor, licensed in California. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use shall contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable regulations of this article.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.116.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66265.117. Post-Closure Care and Use of Property.

(a) This section pertains to facilities at which all hazardous wastes, waste residues, contaminated materials and contaminated soils will not be removed during closure. Additional requirements for such facilities are cited in Title 23 of the California Code of Regulations.

(b)(1) Post-closure care for each hazardous waste management unit subject to the requirements of sections 66265.117 through 66265.120 shall begin after completion of closure of the unit and continue for 30 years after that date. It shall consist of at least the following:

(A) monitoring and reporting in accordance with the requirements of articles 6, 11, 12, 13, and 14 of this chapter; and

(B) maintenance and monitoring of waste containment systems in accordance with the requirements of articles 6, 11, 12, 13, and 14 of this chapter.

(2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Department shall:

(A) shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if the Department finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(B) extend the post-closure care period applicable to the hazardous waste management unit or facility, if the Department finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(c)(1) The Department shall require, at partial and final closure, continuation of any of the security requirements of section 66265.14 during part or all of the post-closure period when:

(A) hazardous wastes may remain exposed after completion of partial or final closure; or

(B) access by the public or domestic livestock may pose a hazard to human health.

(2) To extend any of these requirements during post closure period, the Department will use the procedures of sections 66265.118(d) and (f).

(d) Post-closure use of property on or in which hazardous wastes remain after partial or final closure shall never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Department finds that the disturbance:

(1) is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) is necessary to reduce a threat to human health or the environment.

(e) All post-closure care activities shall be in accordance with the provisions of the approved post-closure plan as specified in section 66265.118.

(f) Upon closure of a hazardous waste facility wherein hazardous wastes remain on-site no construction, filling, grading, excavating or mining shall occur without the issuance of a variance by the Department. No variance may be granted which is inconsistent with subsection (d) of this section.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.117.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66265.118. Post-Closure Plan; Amendment of Plan.

(a) Written plan. The owner or operator of a hazardous waste disposal unit shall have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure shall prepare a post-closure plan and submit it to the Department within 90 days of the date that the owner or operator or Department determines that the hazardous waste management unit or facility shall be closed as a landfill, subject to the requirements of sections 66265.117 through 66265.120.

(b) Until final closure of the facility, a copy of the most current post-closure plan shall be kept at the facility and furnished to the Department upon request, including request by mail. In addition, for facilities without approved post-closure plans, it shall also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Department who is duly designated by the Director. After final closure, the person or office specified in section 66265.118(c)(3) shall keep an updated and approved post-closure plan during the post-closure period,

(c) For each hazardous waste management unit subject to the requirements of this section, the post-closure plan shall identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) a description of the planned monitoring activities and frequencies at which they will be performed to comply with articles 6, 11, 12, 13, and 14 of this chapter during the post-closure care period; and

(2) a description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(A) the integrity of the cap and final cover and other containment systems in accordance with the requirements of articles 11, 12, 13, and 14 of this chapter; and

(B) the function of the monitoring equipment in accordance with the requirements of articles 6, 11, 12, 13, and 14 of this chapter; and

(3) the name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(4) all information necessary to enable the Department to prepare an Initial Study for the post-closure plan, which meets the requirements of Title 14, California Code of Regulations section 15063, unless the Department has determined that the post-closure plan is exempt from the requirements of the California Environmental Quality Act pursuant to Title 14, CCR section 15061.

(d) Amendment of plan. The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan shall submit a written request to the Department to authorize a change to the approved plan. The written request shall include a copy of the amended post-closure plan for approval by the Department.

(1) The owner or operator shall amend the post-closure plan whenever:

(A) changes in operating plans or facility design affect the post-closure plan, or

(B) events which occur during the active life of the facility or the post-closure care period, including partial and final closures, affect the post-closure plan.

(2) The owner or operator shall amend the post-closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(3) An owner or operator with an approved post-closure plan shall submit the modified plan to the Department at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile, who intended to remove all hazardous wastes at closure in accordance with section 66265.228(a) or 66265.258(a) is required to close as a landfill in accordance with section 66265.310, the owner or operator shall submit a post-closure plan within 90 days of the determination by the owner or operator or the Department that the unit shall be closed as a landfill. If the amendment to the post-closure plan is a Class 2 or 3 modification according to the criteria in section 66270.42, the modification to the plan will be approved according to the procedures in section 66265.118(f).

(4) The Department shall request modifications to the plan under the conditions described in subsection (d)(1) of this section. An owner or operator with an approved post-closure plan shall submit the modified plan no later than 60 days after the request from the Department. If the amendment to the plan is considered a Class 2 or 3 modification according to the criteria in section 66270.42, the modifications to the post-closure plan will be approved in accordance with the procedures in section 66265.118(f). If the Department determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure shall close the facility as a landfill, the owner or operator shall submit a post-closure plan for approval to the Department within 90 days of the determination.

(e) The owner or operator of a facility with hazardous waste management units subject to these requirements shall submit the post-closure plan to the Department at least 180 days before the date the owner or operator expects to begin partial or final closure of the first hazardous waste disposal unit. The date the owner or operator "expects to begin closure" of the first hazardous waste disposal unit shall be either no later than the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator shall submit the post-closure plan to the Department no later than 15 days after:

(1) termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(2) issuance of a judicial decree or final order under Health and Safety Code section 25358.3 or article 8 of chapter 6.5 of division 20 of the Health and Safety Code to cease receiving wastes or close.

(f) The Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the post-closure plan and request modifications to the plan no later than 30 days from the date of the notice. The Department will also, in response to a request or at the Department's own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a post-closure plan. The Department will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Department will approve, modify, or disapprove the plan within 90 days of its receipt. If the Department disapproves the plan, the Department shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator shall modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Department will approve or modify this plan in writing within 60 days. If the Department modifies the plan, this modified plan becomes the approved post-closure plan. The Department shall ensure that the approved post-closure plan is consistent with sections 66265.117 through 66265.120. A copy of the modified plan with a detailed statement of reasons for the modifications shall be mailed to the owner or operator.

(g) The post-closure plan and length of the post-closure care period may be modified any time prior to the end or at the end of the post-closure care period in either of the following two ways.

(1) The owner or operator or any member of the public may petition the Department to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the

requirements of the post-closure care period based on cause.

(A) The petition shall include evidence demonstrating that:

1. the secure nature of the hazardous waste management unit or facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or groundwater monitoring results, characteristics of the wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure), or

2. the requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(B) These petitions will be considered by the Department only when they present new and relevant information not previously considered by the Department. Whenever the Department is considering a petition, the Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. The Department will also, in response to a request or at the Department's own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Department will give the public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined). After considering the comments, the Department will issue a final determination, based upon the criteria set forth in subsection (9)(1)(A) of this section.

(C) If the Department denies the petition, the Department will send the petitioner a brief written response giving a reason for the denial.

(2) The Department may tentatively decide to modify the post-closure plan if the Department deems it necessary to prevent threats to human health and the environment. The Department may propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the post-closure care period based on cause.

(A) The Department will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in subsection (g)(1)(B) of this section. After considering the comments, the Department will issue a final determination.

(B) The Department will base the final determination upon the same criteria as required for petitions under subsection (g)(1)(A) of this section. A modification of the post-closure plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Department would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5 and 25246, Health and Safety Code; 40 CFR Section 265.118; Sections 21080(c), 21080.1, 21080.3, 21082.1, 21100 and 21151, Public Resources Code.

HISTORY

1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66265.119. Post-Closure Notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator shall submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Department, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area (not limited to only hazardous waste disposal unit) of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator shall identify the type, location and quantity of the hazardous wastes to the best of the owner's or operator's knowledge and in accordance with any records the owner or operator has kept. Any changes in the type, location or quantity of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed pursuant to section 66265.116 shall be reported to the local zoning authority or the authority with jurisdiction over local land use and to the Department.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator shall:

(1) record, in accordance with State law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:

(A) the land has been used to manage hazardous wastes; and

(B) its use is restricted under article 7 of this chapter; and

(C) the survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area (not limited to only hazardous waste disposal unit) of the facility required by sections 66265.116 and 66265.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Department; and

(2) submit, to the Department, a certification signed by the owner or operator that the notation specified in subsection (b)(1) of this section has been recorded and a copy of the document in which the notation has been placed.

(c) If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste

disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and underlying and surrounding soils, the owner or operator shall request a modification to the approved post-closure plan in accordance with the requirements of section 66265.118(g). The owner or operator shall demonstrate that the removal of hazardous wastes will satisfy the criteria of section 66265.117(d). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and shall manage it in accordance with all applicable requirements of this division. If the owner or operator is granted approval to conduct the removal activities, and the removal activities are completed to the satisfaction of the Department, the owner or operator may request that the Department approve either:

- (1) the removal of the notation on the deed to the facility property or other instrument normally examined during title search, or
- (2) the addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

NOTE: Authority cited: Sections 208, 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.119.

HISTORY

- 1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).

§66265.120. Certification of Completion of Post-Closure Care.

No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator shall submit to the Department, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification shall be signed by the owner or operator and an independent qualified professional engineer, registered in California. Documentation supporting the independent registered, qualified professional engineer's certification shall be furnished to the Department upon request until the Department releases the owner or operator from the financial assurance requirements for post-closure care under section 66265.145, subsection (i).

NOTE: Authority cited: Sections 25150, 25159 and 25245, Health and Safety Code. Reference: Sections 25159, 25159.5, 25245 and 25246, Health and Safety Code; 40 CFR Section 265.120.

HISTORY

- 1. New section filed 5-24-91; operative 7-1-91 (Register 91, No. 22).
- 2. Change without regulatory effect amending section and Note filed 12-19-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 51).